

## **MEMORANDUM FOR RECORD**

**SUBJECT: Department of the Army Statement of Findings for the Above-Referenced Section 10 Letter of Permission Individual Permit Application**

### **1.0 Introduction and Overview**

Introduction and Overview: Information about the proposal subject to the United States Army Corps of Engineers' (Corps') Section 10 Rivers and Harbors Act regulatory authority is provided in Section 1, detailed evaluation of the activity is found in Sections 2 through 8 and findings are documented in Section 9 of this memorandum. Further, summary information about the activity including administrative history of actions taken during project evaluation is attached (ORM2 summary) and incorporated into this memorandum.

#### **1.1 Applicant name**

Timtom Land Holdings, LLC.  
4711 North Wheeler  
Jasper, Texas 75951-8239

#### **1.2 Activity location**

The project site is located in the San Jacinto River at 17433 River Road, Channelview, in Harris County, Texas.

#### **1.3 Description of activity requiring permit**

The applicant proposes to retain existing structures on the project site that extend into the river, perform maintenance on the existing structures and construct a 30-foot-wide by 81-foot-long deck. The existing structures include a 6-foot-wide by 145-foot-long walkway, a 7-foot-wide by 70-foot-long walkway, a building roughly 95-feet-wide by 145-feet-long with a 10-foot-wide by 70-foot-long walkway and a 6-foot-wide by 58-foot-long walkway extending to the north, and an 88-foot-wide by 32-foot-long walkway extending to the west terminating in a 9-foot wide by 48-foot long walkway oriented north/south.

##### **1.3.1 Proposed avoidance and minimization measures**

The applicant has avoided and minimized impacts to waters of the United States by avoiding any proposed fill within any water of the United States.

##### **1.3.2 Proposed compensatory mitigation**

The project will not result in a loss of waters of the United States therefore compensatory mitigation is not proposed.

#### 1.4 Project purpose

The purpose of this project is to retain the existing commercial structure over the water to operate a business.

#### 1.5 Existing conditions and any applicable project history

The project site is a conglomeration of multiple parcels that have been consolidated by a single owner. The project site itself was impacted prior to 1995 by shoreline stabilization measures. Older aerial photos a structure at this location in 1953 and 1978. In 1989 the structure is not visible however available aerial photos taken since 1995 depict the existing structure in place. The project site lies between a proposed barge mooring facility and a proposed barge fleeting area.

##### 1.5.1 Jurisdictional Determination

Is this project supported by a jurisdictional determination? No Jurisdictional Determination

#### 1.6 Permit authority

Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403)

### **2.0 Scope of review for National Environmental Policy Act (i.e., scope of analysis), Section 7 of the Endangered Species Act (i.e., action area), and Section 106 of the National Historic Preservation Act (i.e., permit area)**

#### 2.1 Determination of scope of analysis for National Environmental Policy Act (NEPA)

The scope of analysis always includes the specific activity requiring a Department of the Army permit that is located within the Corps' geographic jurisdiction. In addition, we have applied the four factors test found in 33 CFR Part 325, Appendix B to determine if there are portions of the larger project beyond the limits of the Corps' geographic jurisdiction where the federal involvement is sufficient to turn these portions of an essentially private action into a federal action.

Based on our application of the guidance in Appendix B, we have determined that the scope of analysis for this review includes only the Corps geographic jurisdiction.

Final description of scope of analysis: The scope of analysis for this project includes the area covered by the existing structures and the proposed deck along the shoreline. Therefore, the scope of analysis is only the area in which structures, are proposed to be constructed, repaired and maintained.

#### 2.2 Determination of the Corps' action area for Section 7 of the Endangered Species Act (ESA)

The action area includes only those areas comprising waters of the United States that will be directly affected by the proposed work or structures. Activities outside of waters of the United States are not included.

Final description of the action area: The action area will cover those areas as described in the final NEPA scope analysis.

### 2.3 Determination of Corps' permit area for Section 106 of the National Historic Preservation Act (NHPA)

The permit area includes only those areas comprising waters of the United States that will be directly affected by the proposed work/structures. Activities outside of waters of the U.S. are not included; all three tests in 33 CFR 325, Appendix C(g)(1) have not been met.

Final description of the permit area: The permit area will cover those areas as described in the final NEPA scope analysis.

### 2.4 Review of Impacts on Environmental Values

Letters of permission are a type of permit evaluated through an abbreviated processing procedure that includes coordination with federal and state fish and wildlife agencies, as required by the Fish and Wildlife Coordination Act, and a public interest evaluation, but without the publishing of an individual public notice. For proposals subject to Section 10 of the Rivers and Harbors Act, letters of permission are those cases when, in the opinion of the district engineer, the proposed work would be minor, would not have significant individual or cumulative impacts on environmental values, and should encounter no appreciable opposition (33 CFR 325.2(e)(1)(i)).

Activities can only be authorized under Section 10 using a letter of permission if the Corps determines that the proposed work would not have significant individual or cumulative impacts on environmental values. The impacts to consider are the direct effects which are caused by the action and occur at the same time and place, and indirect effects which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. These impacts must occur within the NEPA scope of analysis as determined in Section 2.1, accounting for all avoidance, minimization, mitigation, and special conditions. The results of coordination and consultation with other agencies should be considered (see Section 6) and may disqualify an action from authorization with a letter of permission if an agency identifies issues that have the potential to have significant impacts on the environment (e.g., a jeopardy Biological Opinion).

The activities will have less than significant impacts on environmental values due to two primary factors. First, the scope, permit area, and action areas are all small in size compared to the watershed of Buffalo San Jacinto (8 Unit Hydrologic Unit Code (HUC) 12040104). Second, the activities will have minimal impact as the existing structures have been in place for the better part of 30 years. Repair and maintenance of these structure in the exact place where they exist now will not add to the impacts already incurred by these structures. The proposed dock will cover an additional 0.06 acre of the river along the shoreline. There are

no special aquatic sites or designated critical habitats located within the vicinity of the action area.

### 3.0 Coordination

#### 3.1 Interagency Coordination Notice (ICN) Results

The results of coordinating the proposal with agencies and others as appropriate are identified in Table 1, including a summary of issues raised, any applicant response and Corps' evaluation of concerns.

| <b>Table 1 – ICN Comments</b>  |                               |                       |                               |   |
|--|-------------------------------|-----------------------|-------------------------------|---|
| <b>Agency and/or Person provided with notice of proposal:</b>                | <b>Response received? Y/N</b> | <b>Date Received:</b> | <b>Applicant replied: Y/N</b> | <b>Comments/Issues Raised, Applicant's Response and Corps Evaluation:</b> |
| United States Environmental Protection Agency (EPA)                          | No                            |                       |                               |   |
| United States Fish and Wildlife Service (FWS)                                | No                            |                       |                               |   |
| National Marine Fisheries Service - Habitat Conservation Division (NMFS-HCD) | Yes                           | 8 June 2022           | No                            | No Objection  |
| United States Coast Guard (USCG)   | No                            |                       |                               |   |
| Texas Commission on Environmental Quality (TCEQ)                             | No                            |                       |                               |   |
| Texas Parks and Wildlife Department (TPWD)                                   | Yes                           | 20 June 2022          | Yes                           | No Objection  |
| Texas General Land Office (GLO)  | No                            |                       |                               |   |
| Texas State Historic Preservation Officer (SHPO)                             | No                            |                       |                               |   |
| Houston Regional Group of the Sierra Club                                    | Yes                           | 15 June 2022          | Yes                           | See below for discussion.   |
| Texas Health and Environment Alliance (THEA)                                 | Yes                           | 23 June 2022          | Yes                           | See below for discussion.   |
| Debra Combs-Planty   | Yes                           | 14 June 2022          | Yes                           | See below for discussion.   |
| Kristy Love  | Yes                           | 14 June 2022          | Yes                           | See below for discussion.   |

| <b>Table 1 – ICN Comments</b>                                 |                               |                       |                               |   |
|---|-------------------------------|-----------------------|-------------------------------|---|
| <b>Agency and/or Person provided with notice of proposal:</b> | <b>Response received? Y/N</b> | <b>Date Received:</b> | <b>Applicant replied: Y/N</b> | <b>Comments/Issues Raised, Applicant's Response and Corps Evaluation:</b> |
| Kevin Fields  | Yes                           | 14 June 2022          | Yes                           | See below for discussion.   |
| Kimberly Powell   | Yes                           | 15 June 2022          | Yes                           | See below for discussion.   |
| Joe Filecia   | Yes                           | 20 June 2022          | Yes                           | See below for discussion.   |
| Penny Masters   | Yes                           | 21 June 2022          | Yes                           | See below for discussion.   |
| 100 Form Letters  | Yes                           | 23 June 2022          | Yes                           | See below for discussion  |

#### Houston Regional Group of the Sierra Club

The Sierra Club stated that:

1. This project is part of a larger project and that this project and the adjacent project should be evaluated as a single and complete project, and that the Corps must review these and other applications for the effects of these developments so that they don't encourage people to live or work in harm's way.
2. The Corps did not identify this application as an after that fact application.
3. This project would create additional barge traffic, navigation and safety problems which could result in accidents, and that the applicant must show what barge navigation channels and routes it will use and to ingress and egress the site without damaging the SJRWP site.
4. Due to their proximity to the SJRWP, these projects will be a focus of dredging and navigation near the site which will cause propwash, wakes, erosion and sedimentation and that the Corps did not disclose the amount of dredging proposed for this project
5. Several studies and plans should be required and submitted for public review and comment: such as an: an O&M plan which reduces water quality, habitat, and wildlife impacts, an analysis, using Harvey and other data, about the flood potential and safety of construction in the floodplain/floodway and storm surge zone. an analysis of risk and probability of storm surge damage, a spill contingency and response plan, a study that discusses the danger of putting these projects and impacts of climate change, climate change mitigation plans which protect the sites and reduces climate change air pollution, a hydrology/hydraulic study to determine how the proposed barge use would affect the SJRWP, ship traffic, navigation safety, and recreational activities like boating, fishing, swimming, birding, and wading in the area, and an environmental assessment or impact statement that assesses, analyzes, and evaluates the possibility of barge congestion and collisions from this project.
6. The applicant has not avoided and minimized the environmental impacts of the proposed project. and any adverse effects to coastal waters, submerged lands and special aquatic resources.

7. The applicant must protect water quality and propose compensatory mitigation for any degradation of water quality that this project may incur, and that the applicant should state what impacts operation and maintenance (O&M) of the project will have on water quality and river and open-bay bottoms.
8. Spills, releases, and explosions could occur from the barges which would pollute the San Jacinto River, Houston Ship Channel, and Galveston Bay, and cause economic disruption to shipping, refining, and petrochemical operations, recreational boating and endanger residents in the area.
9. Barges can collide/ground on the SJRWP and rip open the cap which could result in the exposure to and or release of dioxin and other highly hazardous waste materials into the San Jacinto River and Galveston Bay.
10. The river/bay bottoms next to and within this proposal should constitute a special aquatic site and that the applicant should be required to provide compensatory mitigation for this project and provide restitution for the work previously performed without a permit.

**Applicant's Response:**

In response to the Sierra Club's statements and concerns the applicant stated that:

1. There are proposed projects in the vicinity of this proposed project that are separate and distinct projects, and that the Corps is evaluating each project on its own merits.
2. The applicant did not respond to the comment regarding the Corps classifying this action as an after the fact application.
3. This project is to retain, rehabilitate and maintain existing structures and construct a new deck. This proposed project will not involve any additional barge activity on the river.
4. There is no proposed dredging associated with this project.
5. They are following the process required by the Corps and that these studies are beyond the scope for a project of this scale.
6. They have avoided and minimized the proposed impacts by avoiding any dredging and any discharge of fill material into all waters of the United States as a part of this project.
7. No dredging is proposed as part of this project so Best Management practices for dredging such as silt curtains are not warranted, and that operation and maintenance of the project site will have no anticipated adverse impact.
8. This proposed project will not impact barge traffic.
9. This application to retain, rehabilitate, and maintain existing structures would not involve any additional barge activity on the river.
10. The proposed project nor the work to install the existing structures resulted or will result in a loss of Waters of the United States and thus no restitution should be required for losses to Waters of the United States.

**Corps Evaluation:**

With regard to the applicant's response to the Sierra Club's comments

1. The Corps sees each project in the area as separate, single and complete projects. Each project has a different applicant, different project purpose and need, and are not integrally related. Each project can and is proposed to be constructed independent of one another.

2. The Corps did not classify this action as an after the fact application because the Corps did not pursue an alleged unauthorized activity investigation for the retention of the existing structures.
3. This project is to retain and maintain existing structures within a serviceable condition and add a new deck. This project does not involve barges or barge operations, other than it is located near barge facilities.
4. This permit application does not propose dredging.
5. The Corps recognizes that the applicant is following the process. Due to the size and scale of the proposed project, it is categorically excluded from further NEPA review. See Section 9.2 below for additional information.
6. There is no Section 404 component of this project. Impacts due to the discharge of fill material and dredging have been completely avoided.
7. There is no dredging proposed as part of this project. Operation and maintenance of the project site as a restaurant is not within the Corps' purview.
8. This proposed project will not impact barge traffic.
9. The Corps views this response as reasonable.
10. Special Aquatic sites are defined in 40 CFR 230.40 Subpart E. The project site does not contain special aquatic sites. The project will not result in a loss of waters of the United States.

Comments from the Sierra Club have been adequately addressed.

#### Texas Health and Environment Alliance

The THEA stated that:

1. Barge traffic has increased north of Interstate 10 and community concerns of a barge strike at Interstate 10 were realized during Tropical Storm Imelda. This incident, shut down a thoroughfare and caused problems for months, a real public discussion about increasing barge traffic and mooring in this area, the impacts, and what safeguards are being taken has yet to be held.
2. This proposed project has not followed the public announcement detailing the *Permit Evaluation Requirement Process* for applications in this area.
3. Letters of Permission are only appropriate when “the proposed work would be minor, would not have significant individual or cumulative impacts on environmental values, and should encounter no appreciable opposition” The full application process must be followed for applicants within the Waste Pits Area of Concern.

#### Applicant's Response:

In response to the THEA the applicant stated that:

1. This proposed project is to retain, rehabilitate and maintain existing structures and construct a new deck. This proposed project would not involve any additional barge activity on the river.
2. and 3. They have followed the process and that they will comply with all Corps' policies.

#### Corps Evaluation:

With regard to the applicant's response to the THEA's comments:

1. This project proposes is to retain, and maintain existing structures in a serviceable condition, and construct a new deck. This proposed project will not impact barge traffic

within this stretch of the river.

2. Sediment testing in accordance with the Public Announcement dated 21 October 2009 is required prior to the execution of any work being performed at the project site. The applicant has performed the required sediment testing and submitted the results. Test results are discussed further in Section 3.2 below.

3. The Public Announcement does not restrict the use of any specific type of permit able to be issued by the Corps.

The applicant has adequately addressed the THEA's comments.

One Hundred 100 form letters and 6 other letters from interested individuals all stated similar concerns.

The individuals and the form letters stated that:

1. The project is located in close proximity to the San Jacinto Waste Pits Superfund Site and the Interstate Highway 10 Bridge crossing the San Jacinto River. They are concerned about barges being secured during flood events to prevent barges from breaking loose and either striking the bridge or the cap on the superfund site. They stated that this has happened in the past and caused months of traffic congestion, and damage to the cap at the superfund site.

2. They are concerned about any possible dredging in connection with this project and the potential disturbance of contaminated sediments in the area.

3. That the applicant is not following the sediment testing requirements for projects located within the San Jacinto Waste Pits Area of Concern.

4. The superfund site is scheduled for remediation and that this project may hinder the cleanup efforts.

5. The Letter of Permission process should only be used when "the proposed work would be minor, would not have significant individual or cumulative impacts on environmental values, and should encounter no appreciable opposition.

#### Applicant's Response:

In response to the comments in the letters, the applicant stated that:

1. This proposed project is to retain, rehabilitate and maintain existing structures and construct a new deck. This proposed project will impact barge traffic.

2. There is no proposed dredging associated with this project.

3. They have followed the process and that they will comply with all Corps' policies, specifically the sediment testing policy required for projects located within the San Jacinto Waste Pits Area of Concern.

4. This project will repair and maintain existing structures and add a new dock. These proposed activities will not hinder the cleanup efforts at the nearby Superfund site.

5. They are following all permitting processes required by the regulatory authority charged with evaluating the permit application, that this project falls under Section 10 of the Rivers and Harbors Act and that they have complied with Corps' policies.

#### Corps Evaluation:

Regarding the applicant's response to the plethora of letters:

1. The Corps views this response as reasonable, however the Corps has no jurisdictional



authority to regulate the movement or fleeting of barges.

2. The Corps acknowledges that there is no proposed dredging associated with this permit application.

3. Sediment testing in accordance with the Public Announcement dated 21 October 2009 is required prior to the execution of any work being performed at the project site. The applicant has performed the required sediment testing and submitted the results. Test results are discussed further in Section 3.2 below.

4. The Corps views this response as reasonable.

5. The proposed activity is regulated by Section 10 of the Rivers and Harbors Act. This project does not have a Section 404 component. The proposed work is only to repair and maintain existing structures in place since at least 1995 and add a new deck. This project is minor.

The applicant has adequately addressed the comments from individuals and the form letters.

### 3.2 Additional issues raised by the Corps

Internal coordination conducted within the Galveston District Corps (Corps) offices on: 18 May 2022

The Programs and Project Management Division, Real Estate (RE) Division, Operations Division (OD-Navigation Branch and OD-Operations Branch), Engineering and Construction Division (including area offices) (E&C), Southwestern Division Regional Planning and Environmental Center (RPEC), Project Management Office (PM), and the Regulatory Division's Compliance Branch (RD-C) and Corps staff archeologist (RD-P) were coordinated with during the Internal Review period. Reference Table 2 for summary of responses received.

| <b>Table 2 – Corps Internal Coordination Comments</b> |                   |               |                        |
|---|-------------------|---------------|------------------------|
| Corps Office  | Response received | Date Received | Comments/Issues Raised |
| RE  | Yes               | 19 May 2022   | No federal interests   |
| OD-Navigation Branch                                  | Yes               | 19 May 2022   | No Objection           |
| OD-Operations Branch                                  | Yes               | 18 May 2022   | No Objection           |
| E&C   | No                |               |                        |
| RPEC  | No                |               |                        |
| PM  | No                |               |                        |
| RD-C  | No                |               |                        |
| RD-P  | Yes               | 18 May 2022   | See Section 6.3        |

The Corps stated that any proposed removal and replacement of support pilings appears to have the potential to adversely impact water quality in the vicinity of the project. The Corps also stated concerns regarding the project's potential for adverse impacts on public interest review factors of safety, recreation, and navigation, cited in the comments due to increased barge congestion in the vicinity of the project.

In response the applicant stated that this project is to repair and maintain the existing structure and construct a new dock, and that this project will not impact barge traffic.

The applicant also stated that they had completed the required sediment testing and submitted the results for review. The applicant also stated that during installation of any needed replacement the support pilings silt curtains will be used around the pilings to allow for any disturbed sediment to settle locally before the silt curtains are removed. This Best Management Practice is expected to prevent the spread or distribution of any suspended particles downstream. Sediment test results of the three samples tested were below the toxicity level of 1000 parts per trillion (ppt). Sample PC-01-S registered 1.07 ppt, Sample PC-02-S registered 4.22 ppt and Sample PG-01-S registered 5.68 ppt. Samples PC-01 and PC-02 were core samples and sample PG-01 was a sediment surface sample. Test results were coordinated with the TCEQ. The testing results show that the sediment tested is below the toxicity threshold and therefore the removal of the pilings and the installation of any required new support pilings should not degrade the water quality in the vicinity of the project.

### 3.3 Comments regarding activities and/or effects outside of the Corps' scope of review

Comments were received regarding operation and maintenance of the facility once the proposed pilings have been installed. Operation and maintenance of the site is beyond the purview of the Corps. Appreciable opposition was received regarding operation of barges, and barge fleeting and concerns about dredging in this section of the San Jacinto River. The Corps does not regulate the operation of barges. Additionally, there is no aspect of this proposed project that involves dredging. No comments actually objecting to the repair, rehabilitation, and maintenance of the long term existing structure were received. The actual work proposed is minor and did not received opposition.

## **4.0 General Public Interest Review (33 CFR 320.4 and Regulatory Guidance Letter 84-09)**

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest as stated at 33 CFR 320.4(a). To the extent appropriate, the public interest review below also includes consideration of additional policies as described in 33 CFR 320.4(b) through (r). The benefits which reasonably may be expected to accrue from the proposal are balanced against its reasonably foreseeable detriments.

### 4.1 Public interest factors reviewed

All public interest factors have been reviewed and those that are relevant to the proposal are considered and discussed in additional detail. See Table 3 and any discussion that follows.

| <b>Table 3 – Public Interest Factors</b> |             |                    |                                |                   |                   |                           |
|--|-------------|--------------------|--------------------------------|-------------------|-------------------|---------------------------|
| <b>Factor</b>                            | <b>None</b> | <b>Detrimental</b> | <b>Neutral<br/>(mitigated)</b> | <b>Negligible</b> | <b>Beneficial</b> | <b>Not<br/>Applicable</b> |
| 1. Conservation:                         |             |                    |                                |                   |                   | X                         |
| 2. Economics:                            |             |                    |                                |                   | X                 |                           |
| 3. Aesthetics:                           |             |                    |                                | X                 |                   |                           |
| 4. General Environmental Concerns:       |             |                    |                                | X                 |                   |                           |
| 5. Wetlands:                             |             |                    |                                | X                 |                   |                           |
| 6. Historic Properties:                  | X           |                    |                                |                   |                   |                           |
| 7. Fish and Wildlife Values:             |             |                    |                                | X                 |                   |                           |
| 8. Flood Hazards:                        | X           |                    |                                |                   |                   |                           |
| 9. Floodplain Values:                    | X           |                    |                                |                   |                   |                           |
| 10. Land Use:                            |             |                    |                                | X                 |                   |                           |
| 11. Navigation:                          |             |                    |                                |                   | X                 |                           |
| 12. Shoreline Erosion and Accretion:     |             |                    |                                | X                 |                   |                           |
| 13. Recreation:                          |             |                    |                                | X                 |                   |                           |
| 14. Water Supply and Conservation:       |             |                    |                                |                   |                   | X                         |
| 15. Water Quality:                       |             |                    |                                | X                 |                   |                           |
| 16. Energy Needs:                        |             |                    |                                |                   |                   | X                         |
| 17. Safety:                              |             |                    |                                | X                 |                   |                           |
| 18. Food and Fiber Production:           |             |                    |                                |                   |                   | X                         |
| 19. Mineral Needs:                       |             |                    |                                |                   |                   | X                         |
| 20. Consideration of Property Ownership: |             |                    |                                | X                 |                   |                           |
| 21. Needs and Welfare of the People:     |             |                    |                                | X                 |                   |                           |

Additional discussion of effects on factors above: Listed below are those Public Interest Review (PIR) factors that may have an impact, negligible or beneficial. None of these PIR factors were determined to have an impact that is: Neutral as a result of mitigative action, or Detrimental.

The project area is an existing waterfront area that has no emergent vegetation to provide nursery habitat or shelter for organisms in the vicinity of the project. There are no known land use classifications or coastal zone management plans that would adversely affect the project. The land use in the project area is commercial, residential, and recreational. Navigation at the project site may have a small beneficial impact. Existing shoreline protection measures will maintain a stable shoreline at this location. During construction temporary turbidity may occur during the installation of any required replacement support pilings, resulting in minimal effects to fish and wildlife habitat and other biota. Adjacent property owners were notified through the Interagency Coordination process described above. This project will not adversely impact any Federal Project, or the use of properties not owned or leased by this applicant. This project will have a negligible effect on, wetlands, Fish and Wildlife values, Land Use, Shore erosion and accretion, recreation, and consideration of property ownership.

General environmental concerns include impacts not otherwise discussed. Due to the temporary nature of the construction/repair and maintenance activities turbidity in the water column may occur during construction activities. The project may have a short-term impact on water quality in the immediate vicinity of the project site. Sediment testing was performed as required. Test results are discussed above in Section 3.2. No lasting water pollution will occur. This project will have a negligible impact on general environmental concerns and water quality.

Historic Properties Factor: See Section 10.3 of this document for information regarding how the Corps has determined that it has fulfilled its responsibilities under Section 106 of the NHPA.

#### 4.2 Public and private need

The relative extent of the public and private need for the proposed structure or work: While the need for this project is mainly private, the applicant's customers and the general public may also benefit from this project. Public benefits may include properly maintained structures along the shoreline that may increase recreational opportunity thereby increasing sales tax revenue to public entities to support other projects which are in the public interest.

#### 4.3 Resource use unresolved conflicts

If there are unresolved conflicts as to resource use, explain how the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work was considered.

Discussion: There were no unresolved conflicts identified as to resource use.

#### 4.4 Beneficial and/or detrimental effects on the public and private use

The extent and permanence of the beneficial and/or detrimental effects that the proposed work is likely to have on the public and private use to which the area is suited is described below:

Detrimental effects are expected to be minimal and temporary.

Beneficial effects are expected to be minimal and permanent.

Detrimental effects would be temporary increased turbidity during the installation of the proposed pilings. This effect will only occur during the replacement of any necessary support pilings. The permanent beneficial effect is potential enhanced usage of this portion of the San Jacinto River shoreline.

#### 4.5 Climate Change

The proposed activities within the Corps' federal control and responsibility likely will result in a negligible release of greenhouse gases into the atmosphere when compared to global greenhouse gas emissions. Greenhouse gas emissions have been shown to contribute to climate change. Aquatic resources can be sources and/or sinks of greenhouse gases. For instance, some aquatic resources sequester carbon dioxide whereas others release methane; therefore, authorized impacts to aquatic resources can result in either an increase or decrease in atmospheric greenhouse gas. These impacts are considered de minimis. Greenhouse gas emissions associated with the Corps' federal action may also occur from the combustion of fossil fuels associated with the operation of construction equipment, increases in traffic, etc. The Corps has no authority to regulate emissions that result from the combustion of fossil fuels. These are subject to federal regulations under the Clean Air Act and/or the Corporate Average Fuel Economy (CAFE) Program. Greenhouse gas emissions from the Corps' action have been weighed against national goals of energy independence, national security, and economic development and determined not contrary to the public interest.

### 5.0 Mitigation

(33 CFR 320.4(r), 33 CFR Part 332, and 40 CFR 1508)

#### 5.1 Avoidance and minimization

Avoidance and Minimization: When evaluating a proposal including regulated activities in waters of the United States, consideration must be given to avoiding and minimizing effects to those waters. Avoidance and minimization are described in Section 1.3.1 above.

Describe other mitigative actions including project modifications implemented to minimize adverse project impacts. (see 33 CFR 320.4(r)(1)(i)) N/A

#### 5.2 Compensatory mitigation requirement

Is compensatory mitigation required to offset environmental losses resulting from proposed unavoidable impacts to waters of the United States? No

Provide rationale: No mitigation is required because the activity consists of construction of a structure, and repair and maintenance of an existing structure that would not adversely impact aquatic resources.

## 6.0 Consideration of Cumulative Effects

(40 CFR 1508 & RGL 84-9) Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor direct and indirect but collectively significant actions taking place over a period of time. A cumulative effects assessment should consider how the direct and indirect environmental effects caused by the proposed activity requiring DA authorization (i.e., the incremental impact of the action) contribute to the aggregate effects of past, present, and reasonably foreseeable future actions, and whether that incremental contribution is significant or not.

The following is a discussion of activities that have occurred in the waterbody or watershed over time, and how the proposed activity discussed in this decision document will contribute to cumulative effects to that waterbody or watershed and whether that contribution to cumulative impacts, as evaluated against the current environmental baseline, would be determined to be “not contrary to the public interest.”

### 6.1 Identify/describe the direct and indirect effects caused by the proposed activity:

The direct impact of this project on the San Jacinto River includes the repair, rehabilitation, and maintenance of an existing structure in place since at least 1995 and the addition of a new dock along the shoreline. Impacts may include turbidity in the water column during the replacement of any necessary support pilings. These impacts will be temporary and only occur during construction activities. Indirect impacts include shading of the waterbody of the structure.

### 6.2 The geographic scope for the cumulative effects assessment is:

The geographic scope for the cumulative effects of the proposed activity is the Buffalo - San Jacinto watershed (HUC 12040104). The project site is located in the San Jacinto River, which flows into Galveston Bay. Galveston Bay flows into the Gulf of Mexico. The project and its effects will be limited to a small portion of the San Jacinto River within the Buffalo - San Jacinto watershed. Approximately 2.6% of the watershed is open water, 5.9% of the watershed is wetland, 10.7% is pastureland and 12.5% is developed open space, according to a review of GIS data in the Corps ORM database. The Buffalo - San Jacinto watershed covers portions of Fort Bend, Harris, and Waller Counties. The primary rivers in the watershed drain into Galveston Bay or the Gulf of Mexico.

### 6.3 The temporal scope of this assessment covers:

A review of the Corps regulatory database for the watershed spanning the past 5 years was performed. Similarly, the Corps analysis will estimate future impacts for the next 5 years.

### 6.4 Describe the affected environment:

The affected environment for this project involves the bottom of the San Jacinto River. The project site is in an area of the river that is wide and shallow through this section. The San

Jacinto River joins Buffalo Bayou just south of the Interstate 10 bridge to form a portion of the Houston Ship Channel. The channel then flows southward into Galveston Bay. Most projects along this portion of the San Jacinto River involve bulkheading, and/or dredging for barge operations or barge fleeing. The impacts on the river from these actions are generally minimal.

A concern within this watershed basin is meeting the water supply needs of the Houston metropolitan area. Available groundwater supplies are decreasing, even as demands from the metropolitan area are increasing. Groundwater pumping in the basin has caused land subsidence and seawater intrusion into aquifers. Additional key concerns within this watershed are degradation of water quality, loss of undeveloped land along the shore of the waterway, loss of aquatic resources, and fragmentation of natural habitats for threatened and endangered avian species within the watershed. This project is anticipated to incur minimal impacts as this project only proposes to repair and maintain a long standing structure and add a dock.

Past and present actions, outside the Corps jurisdiction, that have been constructed include infrastructure, commercial, industrial and residential developments, in uplands along the shores of the San Jacinto River. While these actions did not require a Corps permit, they did require City and/or County approval prior to construction.

Past and present actions, within the Corps jurisdiction, and authorized within the watershed, were analyzed by a review of the Corps regulatory database. A review of authorized activities provides an indication of potential stressors, and impacts, on the environment. Past permitted actions, include 290.59 acres of temporary fill, with 51.32 acres being authorized as permanent fill. These permitted actions required creation, enhancement, or preservation of 100.15 acres of wetlands, and the purchase of 36.11 functional credit units to provide compensatory mitigation for the authorized permanent impacts.

Other past and present actions that have had or will have impacts in the same area are the expansion of existing industrial development, construction of residential, and commercial developments, and construction and maintenance of infrastructure. The impacts from these actions include the loss of aquatic resources, and the loss of wildlife habitat. Resulting natural resource changes including land use changes, reduction of wetland acreages, increased floodplain hazards, decreased water quality, and the increased prevalence of invasive species. Development within upland areas not subject to Corps jurisdiction is the primary stressor affecting wildlife habitat within this watershed. Impacts from these actions are similar to other typical commercial, residential, and institutional development projects, and include the discharge of dredged or fill material into wetlands, temporary turbidity in streams from sediment disturbed during construction, and the generation of noise from construction equipment. Any present or future action that proposes to discharge fill material into waters of the United States and cause a permanent loss of function and value of waters of the United States greater than 1/10th of an acre requires a Corps permit and compensatory mitigation to offset the loss of aquatic functions and values.

#### 6.5 Determine the environmental consequences:

Reasonably foreseeable future actions within this watershed include the proposed repair and maintenance of the existing structure and the construction of the proposed dock for this project, possible installation of mooring pilings upstream of this project location, possible dredging of a portion of the river in the vicinity of this project, maintenance of pipelines within existing pipeline rights of way, additional commercial and industrial development along the shore of the San Jacinto River, associated infrastructure such as roads, and pipelines for the transportation of goods and services may be constructed, to meet future demands of a growing population. The need for these actions is expected to be driven by market demands, population increases, and economics. The impacts from these present and future actions on the watershed's aquatic resources, if constructed/completed, include upland habitat losses and disturbance; temporary impacts to water quality; and development pressure on aquatic areas requiring Corps permits.

#### 6.6 Conclusions regarding cumulative impacts:

When considering the direct and indirect impacts that will result from the proposed activity, in relation to the overall direct and indirect impacts from past, present, and reasonably foreseeable future activities, the incremental contribution of the proposed activity to cumulative impacts in the area described in section 6.2, are not significant. Compensatory mitigation will not be required to offset the impacts of the proposed activity to eliminate or minimize its incremental contribution to cumulative effects within the geographic area described in Section 6.2. Mitigation required for the proposed activity is discussed in Section 5.0.

### **7.0 Compliance with Other Laws, Policies and Requirements**

#### 7.1 Section 7(a)(2) of the Endangered Species Act (ESA)

Refer to Section 2.2 for description of the Corps' action area for Section 7 of the ESA.

##### 7.1.1 Lead federal agency for Section 7 of the ESA

Has another federal agency been identified as the lead agency for complying with Section 7 of the ESA with the Corps designated as a cooperating agency and has that consultation been completed? No

##### 7.1.2 Listed/proposed species and/or designated/proposed critical habitat

Are there listed or proposed species and/or designated critical habitat or proposed critical habitat that may be present or in the vicinity of the Corps' action area? No. The Corps has determined that it has fulfilled its responsibilities under Section 7(a) (2) of the ESA. See the Administrative Record.

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## 7.2 Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Essential Fish Habitat (EFH)

### 7.2.1 Lead federal agency for EFH provisions of the Magnuson-Stevens Act

Has another federal agency been identified as the lead agency for complying with the EFH provisions of the Magnuson-Stevens Act with the Corps designated as a cooperating agency and has that consultation been completed? No

### 7.2.2 Magnuson-Stevens Act

Did the proposed project require review under the Magnuson-Stevens Act? Yes, the district engineer determined the proposed activity may adversely affect EFH and thus requires EFH consultation with NMFS.

### 7.2.3 EFH species or complexes

Were EFH species or complexes considered? Yes

The following is a summary of the type of species listed in the Gulf of Mexico Fishery Management Plans: Red drum (*Sciaenops ocellatus*), white shrimp (*Litopenaeus setiferus*) and brown shrimp (*Farfantepenaeus aztecus*), spotted seatrout (*Cynoscion nebulosus*), triggerfishes (*Balistidae*), jacks (*Carangidae*), wrasses (*Labridae*), flounder (*Paralichthys* spp.), Atlantic croaker (*Micropogonias undulatus*), snappers (*Lutjanidae*), tilefishes (*Malacanthidae*), groupers (*Serranidae*), black drum (*Pogonias cromis*), Gulf menhaden (*Brevoortia patronus*), striped mullet (*Mugil cephalus*), blue crab (*Callinectes sapidus*), and coastal migratory pelagic species, stone crabs, and spiny lobsters

Effect determination and basis for that determination: Minimal adverse effect

The NMFS submitted an e-mail dated 8 June 2022 stating that they anticipate any adverse effects, which might occur to marine fishery resources and essential fish habitat, would be minimal provided the applicant adheres to the best management practices associated with pier and dock construction in sensitive resources. Therefore, we do not object to the issuance of this permit.

## 7.3 Section 106 of the NHPA

Refer to Section 2.3 for permit area determination.

### 7.3.1 Lead federal agency for Section 106 of the NHPA

Has another federal agency been identified as the lead federal agency for complying with Section 106 of the NHPA with the Corps' designated as a cooperating agency and has that consultation been completed? No

### 7.3.2 Historic properties

Known historic properties present? No The Corps staff archaeologist reviewed the project site for cultural resources and found that there are no previously recorded historic properties known to exist within the proposed permit area.

Effect determination and basis for that determination: No potential to cause effects

The Corps Staff Archaeologist found that, the proposed project and the constructed project are of such limited nature and extent they have no potential to effect historic properties even if present within the permit area. An archeological investigation would not have been requested for the constructed project.

The Corps Staff Archaeologist determined the project had no potential to cause effects. Consequently, in accordance with the April 25, 2005, memorandum titled "Revised Interim Guidance for Implementing Appendix C of 33 CFR Part 325 with the Revised Advisory Council on Historic Preservation Regulations at 36 CFR Part 800" concurrence by the State Historic Preservation Officer is not required.

### 7.4 Tribal Trust Responsibilities

#### 7.4.1 Tribal government-to-government consultation

Was government-to-government consultation conducted with federally-recognized tribe(s)? No

Provide a description of any consultation(s) conducted including results and how concerns were addressed. The Interagency Coordination Notice was distributed to federally recognized tribes. No response was received from any federally recognized Native American Tribes and/or affiliated groups.

#### 7.4.2 Other Tribal consultation

Other Tribal consultation including any discussion of Tribal Treaty rights. N/A

### 7.5 Section 401 of the Clean Water Act – Water Quality Certification (WQC)

#### 7.5.1 Section 401 WQC requirement

The WQC process is only required for Section 10 activities if the certifying agency determines there is a discharge. The certifying agency did not require a WQC for this action.

### 7.6 Coastal Zone Management Act (CZMA)

#### 7.6.1 CZMA consistency concurrence

Is a CZMA consistency concurrence required, and if so, has the concurrence been issued, objected to, or presumed?

An individual CZMA consistency concurrence is required and has been issued by the appropriate agency.

The applicant has stated that the proposed activity complies with Texas' approved Coastal Management Program (CMP) and will be conducted in a manner consistent with such program. The GLO submitted a letter, 21 June 2022, stating that it has been determined that there are no significant unresolved consistency issues with respect to the project, therefore the project is consistent with the CMP goals and policies.

## 7.7 Wild and Scenic Rivers Act

### 7.7.1 National Wild and Scenic River System

Is the project located in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system?  
No

## 7.8 Effects on Corps Civil Works Projects (33 USC 408)

### 7.8.1 Permission requirements under Section 14 of the Rivers and Harbors Act (33 USC 408)

Does the applicant also require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would alter, occupy, or use a Corps Civil Works project?

No, there are no federal projects in or near the vicinity of the proposal.

## 7.9 Other (as needed): N/A

## 7.10 Compliance Statement

The Corps has determined that it has fulfilled its responsibilities under the following laws and regulations:

| <b>Table 4 – Compliance with Federal Laws and Responsibilities</b> |            |            |
|--|------------|------------|
| <b>Laws, Regulations, Policies, and Guidance</b>                   | <b>Yes</b> | <b>N/A</b> |
| Section 7(a)(2) of the ESA   | X          |            |
| EFH provisions of the Magnuson-Stevens Act                         | X          |            |
| Section 106 of the NHPA  | X          |            |
| Tribal Trust   |            | X          |
| Section 401 of the Clean Water Act                                 |            | X          |
| CZMA   | X          |            |
| Wild and Scenic Rivers Act   |            | X          |
| Section 408 - 33 USC 408   |            | X          |
| Corps Wetland Policy (33 CFR 320.4(b))                             |            | X          |
| Other: N/A   |            | X          |

## 8.0 Special Conditions

### 8.1 Special condition(s) requirement(s)

Are special conditions required to ensure minimal effects, ensure the authorized activity is not contrary to the public interest and/or ensure compliance of the activity with any of the laws above? Yes

### 8.2 Required special condition(s)

Special Condition 1: The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Special Condition 2: When structures or work authorized by this permit are determined by the District Engineer to have become abandoned, obstructive to navigation or cease to be used for the purpose for which they were permitted, such structures or other work must be removed, the area cleared of all obstructions, and written notice given to the Corps of Engineers, Galveston District, Regulatory Division, within 30 days of completion.

Special Condition 3: The permittee must install and maintain, at the permittee's expense, any safety lights, signs and signals required by United States Coast Guard (USCG), through regulations or otherwise, on the permittee's fixed structures. To receive a USCG Private Aids to Navigation marking determination, at no later than 30 days prior to installation of any fixed structures in navigable waters and/or prior to installation of any floating private aids to navigation, you are required to contact the Eighth Coast Guard District (dpw), 500 Poydras St. Suite 1230, New Orleans, LA 70130, (504) 671-2328 or via email to: [D8oanPATON@uscg.mil](mailto:D8oanPATON@uscg.mil). For general information related to Private Aids to Navigation please visit the Eighth Coast Guard District web site at: <https://www.atlanticarea.uscg.mil/District-8/District-Divisions/Waterways/PATON/>

Special Condition 4: By accepting this permit, the permittee agrees to accept potential liability for both response costs and natural resource damages, to the same extent as would be inherent under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended (42 U.S.C. 9601 et. Seq.). Further, the permittee agrees that this permit does not exclude the permittee from liability under the CERCLA, nor does the permit waive any liability for response costs, damages, and any other costs that may be assessed under the CERCLA.

Rationale: In accordance with 33 CFR 325.4 Conditioning of permits, the district engineer will add special conditions to Department of Army permits when such conditions are necessary to satisfy legal requirements or to otherwise satisfy the public interest requirements. The above

special conditions are required for fulfillment of the public interest requirements specified according to 33 CFR 320.4(o)(3) Navigation and 33 CFR 320.4(g) Consideration of property ownership and with the Permit Evaluation Requirement Process outlined in the Public Announcement dated 21 October 2009 for project within the San Jacinto Waste Pits Area of Concern.

## **9.0 Findings and Determinations**

9.1 The activity authorized has been determined to be minor after considering the input from the coordination with other agencies, the avoidance and minimization measures taken, the mitigation required (if any), and any special conditions specified.

This project is a proposal to retain, repair and maintain an existing long-standing structure and add a new dock. No loss of aquatic resources will occur as a result of this project. No adverse impacts are anticipated as a result of this proposed project. The Corps determined that the proposed activities' limited size and scope are small enough to have a less than significant impact on the project site. With the applicant's use of best management practices and adherence to regulations of the USCG, and TCEQ, the activity will not require compensatory mitigation measures.

### **9.2 Less Than Significant Impacts on Environmental Values; Categorically Excluded from NEPA**

Based on the analysis in Section 2.4, this activity will not have significant individual or cumulative impacts on environmental values, and there are no extraordinary circumstances that suggest the impact could rise to the level of significance. This activity is therefore categorically excluded from the need to prepare an environmental assessment or an environmental impact statement (40 CFR 1508 and 33 CFR 325 Appendix B).

### **9.3 Public Involvement**

#### **9.3.1 Public Hearing**

No, no public hearing or meeting was requested.

Based on a review of the public interest factors in Section 4 and any information or requests for a hearing received from the public, the action should encounter no appreciable opposition. The Interagency Coordination Notice solicited any comments regarding this project. We received many letters in response to the notice. Many of the letters expressed concerns regarding activities that are not a part of this proposed project, such as dredging. The details of these responses and how they have been addressed are documented above

#### **9.4 Compliance with the Section 404(b)(1) Guidelines**

This proposal is not subject to Section 404 of the Clean Water Act and therefore this determination is not required.

## 9.5 Section 176(c) of the Clean Air Act General Conformity Rule Review

The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed de minimis levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

## 9.6 Presidential Executive Orders (EO)

### 9.6.1 EO 11988, Floodplain Management

This Executive Order requires that Federal agencies avoid activities that directly or indirectly result in the development of a floodplain area. The proposed project is not located within the floodplain. The work proposed by this permit and the repair and maintenance of the existing structure will not conflict with the intent of Executive Order 11988.

### 9.6.2 EO 12898 and EO 14008, Environmental Justice

#### 9.6.2.1 Provide details regarding screening and mapping tools and available information utilized during the review.

The EPA's Environmental Justice screen and dashboard, and the Council on Environmental Quality's - Climate and Economic Justice Screening tools, available online, were used to identify the census tract of the project site and to identify disadvantaged communities in close proximity to the project site.

#### 9.6.2.2 Have disadvantaged communities been identified within the vicinity of the proposed project? Yes

The Council on Environmental Quality website identified the project site as being located in census tract 48201252600. This tract is identified as disadvantaged due to Expected building loss, Projected flood risk, Low Life Expectancy, Proximity to Risk Management Plan facilities, Proximity to Superfund sites, Diesel particulate matter exposure, Linguistic isolation, and Low income.

#### 9.6.2.3 What meaningful involvement efforts did the Corps take for potentially affected disadvantaged communities and other interested individuals, communities, and organizations?

The Corps engaged in meaningful involvement efforts for potentially affected disadvantaged communities, other interested individuals, communities, and organizations by publishing an Interagency Coordination Notice. The Corps provided written notification of the Notice to adjacent property owners. The Corps contacted local, federal, and state governmental

entities, non-governmental organizations and other entities who have requested that they be added to the coordination notice. Information gathered during the coordination notice is used in the evaluation of the permit application and to render a decision on the final disposition of the application. During the notice period the Corps did not receive any comments regarding environmental justice. See administrative record for additional details.

9.6.2.4 Describe if resource impacts are high and adverse.

The Climate and Economic Justice Screening Tool lists Expected building loss, Projected flood risk, Low Life Expectancy, Proximity to Risk Management Plan facilities, Proximity to Superfund sites, Diesel particulate matter exposure, Linguistic isolation, and Low income as the factors listed as high for the two applicable census tracts. People in this census tract are identified as disadvantaged when considering these identified factors.

Do the impacts fall disproportionately on disadvantaged communities? No

The project proposes to retain, repair, and maintain an existing structure and add a new dock. Due to the limited minimal nature, size, and scope of the proposed project, impacts to disadvantaged categories listed above are not anticipated.

9.6.2.5 Based upon the discussion and analysis in the preceding sections, the Corps has determined that portions of the proposed project within our federal control and responsibility would not have a disproportionately high and adverse human health or environmental effect on disadvantaged communities.

9.6.3 EO 13112, Invasive Species, as amended by EO 13751

There are no invasive species issues involved in this proposed project.

9.6.4 EO 13212 and EO 13302, Energy Supply and Availability

The proposal is not one that will increase the production, transmission, or conservation of energy, or strengthen pipeline safety.

9.7 Public interest determination

Having reviewed and considered the information above, I find that the proposed project is not contrary to the public interest. The permit will be issued with appropriate conditions included to ensure minimal effects, ensure the authorized activity is not contrary to the public interest and/or ensure compliance of the activity with any of the authorities identified in Section 7.

**PREPARED BY:**



Brian. J. Bader  
Regulatory Project Manager  
North Evaluation Unit

Date: 21 June 2023

**REVIEWED/APPROVED BY:**



Kristi N. McMillan  
Chief, Evaluation Branch  
Regulatory Division, Galveston District

Date: 22 June 2023



**Department of the Army Letter of Permission Individual Permit Decision – ORM2  
Decision Summary Data for SWG-2022-00200 – Timtom Land Holdings, LLC**

**Date Generated:** 12-JUN-2023

**Permit ID(s):** 11790333

**Applicant Info:**

| Contact ID | Applicant                               |
|------------|---|
| 11640887   | Tom Marion (Timtom Land Holdings, LLC.) |

**Location Latitude/Longitude:** 29.7988, -95.07946

**Authorized Project Description (from the permit action)**

| Description  | Permit IDs |
|--|------------|
| to retain existing structures on the project site that extend into the river, perform maintenance on the existing structures and construct a 30-foot wide by 81-foot long deck. The existing structures include a 6-foot wide by 145-foot long walkway, a 7-foot wide by 70 foot long walkway, a building roughly 95-feet wide by 145-feet long with a 10-foot wide by 70 foot long walkway and a 6 foot wide by 58-foot long walkway extending to the north, and an 88-foot wide by 32 foot-long walkway extending to the west terminating in a 9-foot wide by 48-foot long walkway oriented north/south. | 11790333   |

**Closure Method**

| Permit Begin Date | Permit End Date | Closure Method                 | Permit IDs |
|-------------------|-----------------|--------------------------------|------------|
| 04-FEB-2022       |                 | Issued With Special Conditions | 11790333   |

**After-the-fact (ATF)?**

| ATF | Permit IDs |
|-----|------------|
| Yes | 11790333   |

**Jurisdictional Determination(s) (JDs)**

No Data Found

**Permit Authority**

| Permit Authority | Permit IDs |
|------------------|------------|
| Section 10       | 11790333   |

**Permit Type, Permit Name and Number (PNN)**

| Permit Type | PNN | Permit IDs |
|-------------|-----|------------|
| LOP         |     | 11790333   |

**Date Determined Complete for Processing**

| Date Processing Complete | Permit IDs |
|--------------------------|------------|
| 04-FEB-2022              | 11790333   |

**Worktypes**

| Worktype | Permit IDs |
|----------|------------|
|----------|------------|

|                          |          |
|--------------------------|----------|
| DEVELOPMENT \ COMMERCIAL | 11790333 |
|--------------------------|----------|

### Impact(s) including Impact Activity Types (IAT), Units of Measure (UOM) and Amounts

| Permit ID | Perm Loss | Cowardin Class  | IAT            | Initially Proposed          | Proposed                    | Authorized                  |
|-----------|-----------|---|----------------|-----------------------------|-----------------------------|-----------------------------|
| 11790333  | No        | E1UB-<br>ESTUARINE,<br>SUBTIDAL<br>UNCONSOLIDAT<br>ED BOTTM | Structure Area | (L)<br>(W)<br>(A) 0.58 Acre | (L)<br>(W)<br>(A) 0.58 Acre | (L)<br>(W)<br>(A) 0.58 Acre |

### Aquatic Resource(s) associated with Impact(s)

| Waters Name                             | Waters Type                                    | Cowardin Class  | Waterway             | Latitude/Longitude | Permit IDs |
|---|--|---|----------------------|--------------------|------------|
| SWG-2022-<br>00200 San<br>Jacinto River | Delineation Only<br>- PJD or No JD<br>Required | E1UB-<br>ESTUARINE,<br>SUBTIDAL<br>UNCONSOLIDA<br>TED BOTTM | San Jacinto<br>River | 29.7988, -95.07946 | 11790333   |

### Internal Coordination

| Permit ID | SubAction ID | Permit Start Date | Permit End Date |
|-----------|--------------|-------------------|-----------------|
| 11790333  | 12113163     | 18-MAY-2022       | 24-MAY-2022     |

### Compensatory Mitigation Required (CMR)? Permittee Responsible Mitigation (PRM)?

| CMR? | PRM? | Permit IDs |
|------|------|------------|
| No   | None | 11790333   |

### Mitigation including Type, Units of Measure (UOM) and Amounts

No Data Found

### Advanced Permittee Responsible Credits

No Data Found

### Aquatic Resource(s) associated with Mitigation

No Data Found

### Evaluation Checklist Responses for:

#### Endangered Species Act (ESA)

| Type             | Decision                       | Permit IDs |
|------------------|--------------------------------|------------|
| ESA Coordination | Resources Present/No<br>Effect | 11790333   |

#### Essential Fish Habitat (EFH)

| Type             | Decision                       | Permit IDs |
|------------------|--------------------------------|------------|
| EFH Coordination | Resources Present/No<br>Effect | 11790333   |

#### Section 106 of the NHPA

| Type                    | Decision                                  | Permit IDs |
|-------------------------|---|------------|
| Section 106 of the NHPA | Coordination/Consultation<br>Not Required | 11790333   |

**Tribal Consultation(s)**

| Type                             | Decision     | Permit IDs |
|----------------------------------|--------------|------------|
| Tribal Coordination/Consultation | Not Required | 11790333   |

**Wild & Scenic River**

| Type                | Decision             | Permit IDs |
|---------------------|----------------------|------------|
| Wild & Scenic River | No Resources Present | 11790333   |

**Water Quality Certification (WQC)**

| Type           | Decision     | Permit IDs |
|----------------|--------------|------------|
| Individual WQC | Not Required | 11790333   |

**Coastal Zone Management Consistency Concurrence (CZM)**

| Type | Decision | Permit IDs |
|------|----------|------------|
| CZM  | Required | 11790333   |

**Recapture Provision**

| Type                | Decision       | Permit IDs |
|---------------------|----------------|------------|
| Recapture Provision | Does Not Apply | 11790333   |

**Subactions Added:****ESA Consultation(s)**

No Data Found

**EFH Consultation(s)**

No Data Found

**Section 106 of the NHPA Consultation(s)**

No Data Found

**Tribal Consultation(s)**

No Data Found

**Water Quality Certification (WQC) Consultation(s)**

No Data Found

**408 Review Required?**

| Section 408 | Permit IDs |
|-------------|------------|
| No          | 11790333   |